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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/582,187	06/08/2006	Paul G. Swiszc	33559/US/2	4006

20686 7590 06/23/2010  
DORSEY & WHITNEY, LLP  
INTELLECTUAL PROPERTY DEPARTMENT  
370 SEVENTEENTH STREET  
SUITE 4700  
DENVER, CO 80202-5647

EXAMINER
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RUDDOCK, ULA CORINNA

ART UNIT	PAPER NUMBER
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1786

NOTIFICATION DATE	DELIVERY MODE
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06/23/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing-dv@dorsey.com  
docketingDV@dorsey.foundationip.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/582,187	<b>Applicant(s)</b> SWISZCZ, PAUL G.	
	<b>Examiner</b> Ula C. Ruddock	<b>Art Unit</b> 1786	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-25 is/are pending in the application.
- 4a) Of the above claim(s) 12-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-11 and 21-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 3, 2010, has been entered.
2. The Examiner has carefully considered Applicant's response filed June 3, 2010. In view of Applicant's remarks, all previously set forth rejections have been withdrawn. However, after an updated search, additional prior art has been found which renders the invention as currently claimed.

### ***Response to Amendment***

3. The declaration under 37 CFR 1.132 filed June 3, 2010, is sufficient to overcome the rejection of claims 2-11 based upon Christou et al. (US 2005/0159058).

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 3, 4, 5, 6, 7, 8, 9, 10, 11, and 21 is rejected under 35 U.S.C. 102(b) as being anticipated by Dugan et al. (US 4,994,317). Dugan et al. disclose a fire barrier fabric which is

lightweight, maintains excellent fabric characteristics such as good drapability and aesthetic properties (col 1, ln 47-51). The fabric can be useful as a decorative fire-resistant fabric for use as a barrier in building materials (col 4, ln 26-55). The fabric includes a woven textile fabric substrate comprising glass fibers wherein the warp yarns are interengaged with weft yarns at spaced intervals (col 2, ln 24-61). A flexible polymer layer is applied to the fabric substrate. The polymer is substantially continuous filling the voids between the yarns of the fabric (col 3, ln 6-12), thus meeting Applicant's requirement that the polymer is without holes or discontinuities. The polymer layer is applied at a rate of 0.25 to 20 ounces per square yard (col 3, ln 31-32). It should be noted that it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 2647 (1987). Therefore, Application's limitation "for use in a roll-up covering for an architectural opening" has not been given patentable weight. Furthermore, regarding the limitation of a dry-lay heat bond, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has no been given patentable weight.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 2 and 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dugan et al. (US 4,994,317), as shown above. Dugan et al. disclose the claimed invention except for the specific teaching that there is an adhesive layer and that the polymer layer is translucent, opaque, transparent, or reflective. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used an adhesive layer in the product of Dugan et al., motivated by the desire to create a composite fabric that has increased dimensional stability. Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the polymer layer be translucent, opaque, transparent, or reflective motivated by the desire to create a fabric with the desired aesthetic appearance.

#### ***Response to Arguments***

8. Applicant's arguments with respect to claims 2-11 and 21-25 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ula C. Ruddock whose telephone number is 571-272-1481. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, D. Lawrence Tarazano can be reached on 571-272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/U. C. R./

/Ula C Ruddock/  
Primary Examiner, Art Unit 1786